

Notice of Allowability

Application No.

09/623,596

Examiner

Kathleen M. Kerr

Applicant(s)

WACHI ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/12/05.
2. ☒ The allowed claim(s) is/are 1,2,6,8,9,11,13-19,28 and 29.
3. ☒ The drawings filed on 05 September 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Kathleen M Kerr
Primary Examiner
Art Unit: 1652

DETAILED ACTION

Application Status

1. In response to the previous Office action, a non-final rejection (mailed on October 15, 2004), Applicants filed a response and amendment received on April 12, 2005. Said amendment canceled Claims 7 and 24, amended Claims 1, 2, 6, and 15-19. Thus, Claims 1-3, 6, 8, 9, 11-23, and 25-27 are pending in the instant Office action and will be examined herein.

Priority

2. As previously noted, the request for the benefit of priority for the International Application No. PCT/JP99/01084 filed on March 5, 1999 and the foreign application Japan 10-55608 filed on March 6, 1998, is noted. No translation of the JP document has been filed.

Withdrawn - Claim Rejections - 35 U.S.C. § 112, second paragraph

3. Previous rejection of Claims 1-3, 6, 7, and 17-27 under 35 U.S.C. § 112, second paragraph, as being indefinite for the nature of "a chromosomal gene of a penicillin binding protein 3 in coryneform" is withdrawn by virtue of Applicant's amendment.

4. Previous rejection of Claims 2 and 21 under 35 U.S.C. § 112, second paragraph, as being indefinite for the phrases describing the first and second temperatures is withdrawn by virtue of Applicant's amendment.

Art Unit: 1652

5. Previous rejection of Claims 7 and 24 under 35 U.S.C. § 112, second paragraph, as being indefinite for the phrase describing “the gene encoding the functioning penicillin binding protein 3” is withdrawn by virtue of Applicant’s cancellation of said claims.

6. Previous rejection of Claims 17 and 25 under 35 U.S.C. § 112, second paragraph, as being indefinite for the scope of the claim is withdrawn by virtue of Applicant’s amendment.

Withdrawn - Claim Rejections - 35 U.S.C. § 112, first paragraph

7. Previous rejection of Claims 1-3, 6-7, and 17-27 under 35 U.S.C. § 112, first paragraph, scope of enablement, because the specification, while being enabling for methods using coryneform bacteria with a reduced or eliminated PBP3 by virtue of a deletion, does not reasonably provide enablement for methods using coryneform bacteria with a reduced or eliminated PBP3 by virtue of a mutation other than deletion, is withdrawn by virtue of Applicant’s amendment.

8. Previous rejection of Claims 1-3, 6, 7, and 17-27 under 35 U.S.C. § 112, first paragraph, new matter, is withdrawn by virtue of Applicant’s amendment removing “inducible promoter” from the claims.

9. Previous rejection of Claims 15-16 under 35 U.S.C. § 112, first paragraph, new matter, is withdrawn by virtue of Applicant’s amendment limiting Claim 15 to *E. coli* and coryneform cells, which are supported in the summary of the invention and the examples.

Art Unit: 1652

EXAMINER'S AMENDMENT

10. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephen Baxter on June 27, 2005.

Amendments to the Claims

11. The claims have been amended as follows:

- a) Cancel Claims 3, 12 and 22.
- b) Rewrite Claim 1 as follows:

---1. A method for producing L-glutamic acid comprising:

- a) deleting all or a portion of a gene encoding an endogenous penicillin binding protein 3 (PBP3) in a coryneform bacterium such that the activity of endogenous PBP3 is eliminated;
- b) transforming said coryneform bacterium with a plasmid containing a temperature sensitive replicon and a DNA encoding a functioning PBP3;
- c) cultivating said coryneform bacterium in a liquid medium to produce and accumulate L-glutamic acid; and
- d) collecting the L-glutamic acid;

wherein said DNA comprises nucleotides 881 to 2623 of SEQ ID NO:1 or a DNA hybridizable thereto under stringent conditions which include washing in 1x SSC and 0.1% SDS at 60°C.---

c) Rewrite Claim 14 as follows:

---14. A vector comprising the DNA of Claim 9.---

d) Rewrite Claim 17 as follows:

---17. The method according to claim 1, wherein said endogenous PBP3 gene comprises nucleotides 881 to 2623 of SEQ ID NO:1 or a DNA hybridizable thereto under stringent conditions.---

e) Rewrite Claim 19 as follows:

---19. The method according to claim 17, wherein said endogenous PBP3 gene comprises nucleotides 881 to 2623 of SEQ ID NO:1.---

f) Add new Claims 28-29 as follows:

---28. A vector comprising the DNA of Claim 8.---

---29. A bacterial cell selected from the group consisting of Escherichia coli and a coryneform bacterium comprising the vector of Claim 28.---

Conclusion

12. Claims 1, 2, 6, 8, 9, 11, 13-19, and 28-29 are allowed.

Art Unit: 1652

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M. Kerr whose telephone number is (571) 272-0931.

The examiner can normally be reached on Monday through Friday, from 9:00am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathupura Achutamurthy can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kathleen M Kerr
Primary Examiner
Art Unit 1652

June 27, 2005